

103 KAR 17:060. Income subject to taxation; portions.

RELATES TO: KRS 141.010, 141.017, 141.019, 141.020, 141.900

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the department to promulgate administrative regulations to administer and enforce Kentucky's tax laws. KRS 141.020 establishes the income tax requirements for residents, part-year residents, and non-residents. This administrative regulation prescribes methods of determining the Kentucky portion of certain income tax deductions of nonresidents and part-year residents.

Section 1. Definitions. (1) "Nonresident" is defined by KRS 141.010(18).

(2) "Part-year resident" is defined by KRS 141.010(20).

(3) "Resident" is defined by KRS 141.010(24).

Section 2. Taxation of Residents. The entire net income of a resident shall be subject to Kentucky income tax regardless of its source. Income from out of state sources shall not be exempt. The adjustments to gross income and itemized deductions allowed under KRS 141.019 of a resident shall not be limited to those paid in Kentucky.

Section 3. Taxation of Part-Year Residents. (1) Part-year residents shall be subject to Kentucky individual income tax upon their entire net incomes from all sources while they are Kentucky residents, and upon their incomes from Kentucky sources during the period of non-residency.

(2) Except as provided in Section 6 of this administrative regulation for net operating loss deductions, part-year residents shall be limited to either.

(a) Adjustments to gross income and itemized deductions allowed pursuant to KRS 141.019 paid while a Kentucky resident; or

(b) That portion of total adjustments to gross income and total itemized deductions allowed pursuant to KRS 141.019 that Kentucky income bears to total income.

Section 4. Taxation of Nonresidents. (1) Any net income of a nonresident shall be subject to Kentucky income tax if it is derived from services performed in Kentucky, from property located in Kentucky, or from income received from a pass-through entity doing business in Kentucky. Income from sources outside Kentucky shall not be subject to Kentucky income tax. Losses incurred outside Kentucky shall not be deductible in computing Kentucky adjusted gross income.

(2) Except as provided in Section 6 of this administrative regulation for net operating loss deductions, the adjustments to gross income and itemized deductions allowed pursuant to KRS 141.019 shall be limited to that portion of adjustments to gross income and total itemized deductions that Kentucky income bears to total income.

Section 5. Allocation Based Upon Kentucky Income. If a deduction or an adjustment to gross income is allowable based upon the receipt of certain types of income and is limited to a maximum amount deductible for federal income tax purposes, the Kentucky income used to make the allocation shall be the same type of income used to allow the deduction on the federal return per KRS 141.017.

Section 6. Net Operating Loss Deduction. A resident, part-year resident, or nonresident shall compute the net operating loss deduction using Kentucky income and expenses allowed or allowable on the Kentucky return (II-6-1; 1 Ky.R. 329; eff. 2-5-1975; 20 Ky.R. 2879; eff. 5-

18-1994; 32 Ky.R. 2060; 33 Ky.R. 77; eff. 8-7-2006; 45 Ky.R. 1069, 1517; eff. 1-4-2019.)